

IN RE: PETITION FOR SPECIAL HEARING
SE/S Frederick Road, 170' SW
of Symington Avenue
(6348 Frederick Road)
1st Election District
1st Councilmanic District
Vista Development, Inc.
Petitioner

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 91-132-SPH

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a special hearing to approve an extension of the special exception previously granted by the Zoning Commissioner in Case No. 88-455-X on August 12, 1988 and by the Board of Appeals on November 23, 1988 in Case No. CBA 88-124 for a Class B office building for a period of five (5) years from the date of the Order issued by the Board of Appeals, as more particularly described in Petitioner's Exhibit 1.

The Petitioner, by Harold H. Burns, Jr., President, appeared, testified and was represented by Thomas P. Dore, Esquire. Also appearing on behalf of the Petition was William P. Monk. Appearing as Protestants in the matter were Thomas W. Birdsell, June Moody, Earl and Kathleen James, and Linda Gibson.

Testimony indicated that the subject property, known as 6348 Frederick Road, consists of 62,210 sq.ft. split zoned R.O. and D.R. 5.5, and is the proposed site for a Class B office building as set forth in Petitioner's Exhibit 1. Said property was the subject of previous Case No. 88-455-X in which the Petitioner's predecessor in title, Caton Joint Venture, was granted a special exception for the proposed Class B office building on August 12, 1988, subject to restrictions. Caton Joint Venture secured approval of the use proposed with the affirmation by the County Board of Appeals of County Review Group approval of a plan identical to

the plan submitted in the instant matter, identified as Petitioner's Exhibit 1. Said property was also the subject matter of previous Case No. 90-282-SPHKA in which Petitioners were denied a special hearing, special exception and variances for an assisted living facility in lieu of the originally proposed Class B office building by Order issued July 3, 1990. The Petitioner offered testimony through its witnesses that the property in question and the community at large are the same as when the original decision by the Board regarding the Class B office building was issued on November 23, 1988. The Petitioner's expert witnesses all testified as to the requirements of Section 502.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) and indicated that the circumstances surrounding the relief granted remain the same.

The Protestants, who objected to the original relief granted for the Class B office building and were also opposed to the alternative plan for an elderly housing facility, argued strongly for a denial of the instant request for an extension of the special exception. In general, the Protestants object to the Class B office building proposed and its impact upon the community. However, they also object to the base R.O. zoning upon the subject property, which is located within their residential community. The Protestants do not want the matter extended beyond the time period for the comprehensive zoning map review by the Baltimore County Council in 1991 because they are planning to request the property be down-zoned and believe they will be successful. Furthermore, the Protestants argued that there are other uses for the subject property, including residential development, which would be more advantageous to the community and would not create the negative impact that they perceive the R.O. Class B development will have on their community.

ORDER RECEIVED FOR FILING
Date 12/16/90
By [Signature]

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Both parties provided compelling arguments for their respective positions. However, the fact remains that the Class B office building set forth on Petitioner's Exhibit 1 has been approved by the County Review Group, the Zoning Commissioner and the Board of Appeals as being in compliance with the laws and regulations that govern the development of Class B office buildings on R.O. zoned land. In the opinion of the Zoning Commissioner, it is undisputed that the subject property and the community in which it lies, have not changed in any substantive manner which would alter the basis for granting the special exception as affirmed by the Board of Appeals opinion dated November 23, 1988. The Petitioners argued that they did not pursue the relief granted by the Board in view of their pursuit of an alternative development plan for an elderly housing facility in Case No. 90-282-SPHKA. Further testimony indicated that the requested extension is necessary as the current economic climate is not conducive to constructing the proposed Class B office building. In the opinion of the Zoning Commissioner, there is no evidence that the plans for a Class B office building have been abandoned. The Protestants' argued that an extension of the special exception beyond the time frame for the comprehensive map review is unnecessary. The Protestants also argued strongly that the requested extension could be reviewed after the comprehensive zoning process to determine whether or not there have been any changes in circumstances that would void the special exception granted.

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship would result if the relief requested in the special hearing, as hereinafter modified, were not granted. In the opinion of the Zoning Commissioner, an extension of time until February 1, 1992 is sufficient for Petitioner to

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Date 12/16/90
By [Signature]

- 3 -

commence utilization of the special exception granted in Case No. 88-455-X. It has been established that the requirements from which the Petitioner seeks relief would unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the relief requested, as modified, will not be detrimental to the public health, safety, and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested in the special hearing, as hereinafter modified, should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 16th day of December, 1990 that the Petition for Special Hearing to approve an extension of the special exception granted by the Zoning Commissioner for a Class B office building in Case No. 88-455-X on August 12, 1988 and affirmed by the Board of Appeals in Case No. CBA 88-124 on November 23, 1988 for a Class B office building in accordance with Petitioner's Exhibit 1, for a period of five (5) years from the date of the Order issued by the Board, be and is hereby DENIED; and,

IT IS FURTHER ORDERED that the special exception granted by the Zoning Commissioner in Case No. 88-455-X as affirmed by the Board of Appeals in Case No. CBA 88-124 shall be extended until February 1, 1992; and,

IT IS FURTHER ORDERED that all other conditions and restrictions contained in the Order issued on August 12, 1988, and affirmed by the Board of Appeals' Order issued November 23, 1988, shall remain in full force and effect.

J. Robert Haines
Zoning Commissioner
for Baltimore County

ORDER RECEIVED FOR FILING
Date 12/16/90
By [Signature]

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PETITION FOR SPECIAL HEARING

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve grant an extension of the special exception for a Class B office building as approved by the Board of Appeals on November 23, 1988 (Case #88-455-X and CBA 88-124) for a period of five (5) years from said date pursuant to Section 502.3 (BCTR).

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of the above Special Hearing advertising, posting, etc., upon filing of this Petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm under the penalties of perjury that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser: (Type or Print Name) Signature Address City and State

Legal Owner(s): Vista Development, Inc. (Type or Print Name) Signature Address City and State

Attorney for Petitioner: Harold Burns, Jr. (Type or Print Name) Signature Address City and State

Attorney's Telephone No.: 528-0044

ORDERED By The Zoning Commissioner of Baltimore County, this 19 day of Sept 1990, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 15 day of Nov 1990, at 9:30 o'clock A.M.

J. Robert Haines
Zoning Commissioner of Baltimore County

12/16/90
90-132-SPH
1/24/92

FROM THE OFFICE OF
GEORGE WILLIAM STEPHENS, JR., & ASSOCIATES, INC.
ENGINEERS
P.O. BOX 6814, TOWSON, MARYLAND 21204

91-132-SPH
December 16, 1987

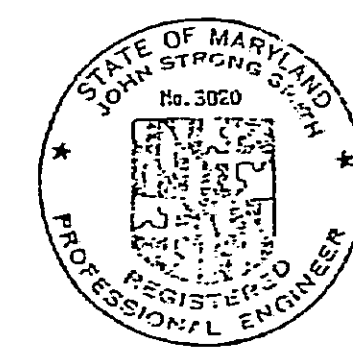
Re: Paradise Professional Center

Description to Accompany Petition
For a Special Exception for a
Class 'B' Office Building

Point of beginning being located South ± 81° 50' 00" West ±170.00 feet from the point of intersection of the centerline of Frederice Road with the centerline of Symington Avenue thence in a clockwise direction:

- 1) South 73° 52' 00" West 201.34 feet
- 2) North 11° 18' 00" West 341.50 feet
- 3) South 72° 18' 00" East 89.11 feet
- 4) South 46° 10' 00" East 96.31 feet
- 5) South 18° 25' 00" East 22.95 feet
- 6) South 32° 40' 00" East 120.56 feet and
- 7) South 16° 08' 00" East 120.83 feet to the place of beginning.

(Containing 1.29 acres of land more or less.)



THIS DESCRIPTION IS FOR ZONING PURPOSES ONLY.

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 1st Date of Posting: October 22, 1990

Posted for: Special Hearing

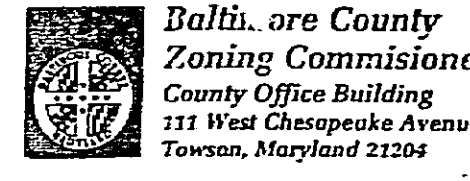
Petitioner: Vista Development, Inc.

Location of property: 915 Frederick Road, 170' SW of Symington Avenue, 6348 Frederick Road

Location of Signs: Front of subject property at 6348 Frederick Road

Marked by: E.J. Butler Date of return: November 2, 1990

Number of Signs: 1



Account: R-001-6150
Number

receipt
No 3277

Date: 8/27/90 H9100080

| PUBLIC HEARING FEES | QTY | PRICE |
|---------------------------------------|-----|----------|
| 040 - SPECIAL HEARINGS (OTHER) | 1 X | \$175.00 |
| TOTAL: | | \$175.00 |
| LAST NAME OF OWNER: VISTA DEVELOPMENT | | |

04AD40037MCHRC \$175.00
BA C009:25AD08-27-90
Baltimore County

Cashier Validation:

Please make checks payable to: Baltimore County

NOTICE OF HEARING
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:
Petition for Special Hearing
Case number: 91-132-SFH
S/E Frederick Road, 170' SW of Symington Road
1st Election District - 1st Councilmanic
Petitioner(s): Vista Development, Inc.
Hearing Date: Thursday, Nov. 15, 1990 at 9:30 a.m.
Special Hearing: Grant an extension of special exception for a Class B office building as approved by the Board of Appeals on November 23, 1988 (Case #88-455-X) for a period of five (5) years from said date.

CERTIFICATE OF PUBLICATION

TOWSON, MD., Oct 22, 1990

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on Oct 18, 1990

THE JEFFERSONIAN,

S. Zebe Orlin
Publisher

\$55.02

\$80.02

receipt

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Account: R-001-6150
Number

91-132-SFH

Date

| COPIES: | QTY | PRICE |
|-------------------|-----|---------|
| 783 - TOWSON TIME | 01 | \$15.00 |
| TOTAL: | | \$15.00 |

04A04#0070MICHRC \$15.00
Please Make Checks Payable To: Baltimore County 04091111AM12-05-90

Cashier Validation

receipt

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Account: R-001-6150
Number

91-132

Date

| 11/15/90 | QTY | PRICE |
|---------------------------------------|-----|---------|
| PUBLIC HEARING FEES | | |
| 080 - POSTING SIGNS / ADVERTISING 1 X | | \$80.00 |
| TOTAL: | | \$80.00 |

LAST NAME OF OWNER: VISTA DEVELOPMENT

04A04#0050MICHRC \$80.02
BA 009#20AM11-15-90

Please make checks payable to: Baltimore County

Cashier Validation

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353
J. Robert Haines
Zoning Commissioner

Vista Development, Inc.
300 Cathedral Street, Suite 200
Baltimore, Maryland 21201

Re: Petition for Special Hearing
CASE NUMBER: 91-132-SFH
S/E Frederick Road, 170' SW of Symington Avenue
6348 Frederick Road
1st Election District - 1st Councilmanic
Petitioner(s): Vista Development, Inc.
HEARING: THURSDAY, NOVEMBER 15, 1990 at 9:30 a.m.

Gentlemen:

Please be advised that \$_____ is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please make your check payable to Baltimore County, Maryland. Bring the check and the sign & post set(s) to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland fifteen (15) minutes before your hearing is scheduled to begin.

Be advised that should you fail to return the sign & post set(s), there will be an additional \$50.00 added to the above amount for each such set not returned.

Very truly yours,

J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER

JRH:gs

cc: Harold Burns, Jr., Esq.

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353
J. Robert Haines
Zoning Commissioner

October 1, 1990

NOTICE OF HEARING

Dennis F. Rasmussen
County Executive

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

Petition for Special Hearing
CASE NUMBER: 91-132-SFH
S/E Frederick Road, 170' SW of Symington Avenue
6348 Frederick Road
1st Election District - 1st Councilmanic
Petitioner(s): Vista Development, Inc.
HEARING: THURSDAY, NOVEMBER 15, 1990 at 9:30 a.m.

Special Hearings Grant an extension of special exception for a Class B office building as approved by the Board of Appeals on November 23, 1988 (Case #88-455-X) for a period of five (5) years from said date.

J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER OF
BALTIMORE COUNTY

cc: Vista Development, Inc.
Harold Burns, Jr., Esq.
William P. Mark, Inc.

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353

J. Robert Haines
Zoning Commissioner

October 30, 1990

Harold Burns, Esquire
300 Cathedral Street, Suite 200
Baltimore, MD 21201

RE: Item No. 80, Case No. 91-132-SFH
Petitioner: Vista Development, et al
Petition for Special Hearing

Dear Mr. Burns:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINTARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Very truly yours,

James E. Dyer
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:jw

Enclosures

cc: Mr. William Monk
100 W. Pennsylvania Avenue, Suite 305
Towson, MD 21204

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353
J. Robert Haines
Zoning Commissioner

Dennis F. Rasmussen
County Executive

Your petition has been received and accepted for filing this 19th day of September, 1990.

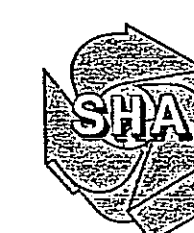
J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER

Received By:

James E. Dyer
Chairman
Zoning Plans Advisory Committee

Petitioner: Vista Development, Inc.

Petitioner's Attorney: Harold Burns, Jr.



Maryland Department of Transportation
State Highway Administration

Richard H. Trainor
Secretary
Hal Kassoff
Administrator

September 11, 1990

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Attn: Mr. James Dyer

Re: Baltimore County
Vista Development, Inc.
Zoning Meeting of 9-18-90
N/S Frederick Road
(MD 144) 170' West of
Symington Avenue
(Item #80)

Dear Mr. Haines:

We have reviewed the submittal for a special hearing to grant an extension of the special exception for a Class B office building, as approved by the Board of Appeals on November 23, 1989. We have no further comment provided there is no change to the plans.

If you have any questions, please contact Larry Brocato at (301) 333-1350.

Very truly yours,

John Contestabile
John Contestabile, Chief
Engineering Access Permits
Division

LB:maw

cc: Mr. J. Ogle

RECEIVED
SEP 21 1990
ZONING DIV.

My telephone number is (301) 333-1350 (Fax #333-1041)

Teletypewriter for Impaired Hearing or Speech
383-7555 Baltimore Metro - 565-0451 D.C. Metro - 1-800-492-5082 Statewide Toll Free
707 North Calvert St., Baltimore, Maryland 21203-1717

Baltimore County
Fire Department
700 East Joppa Road, Suite 901
Towson, Maryland 21204-5500
(301) 887-4500
Paul H. Raincke
Chief

September 19, 1990

J. Robert Haines
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, MD 21204

RE: Property Owner: VISTA DEVELOPMENT, INC.
Location: SE FREDERICK ROAD

Item No.: 80 Zoning Agenda: SEPTEMBER 18, 1990

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: Capt. J. Kelly Noted and Approved W.F. Brach
Planning Prob' Fire Prevention Bureau
Special Inspection Division

JK/REK

RECEIVED

9/21/90

COVANEY & BOOZER
614 BOSLEY AVENUE
TRINCOM, MARYLAND 2120

